

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

National Association for the
Advancement of Colored People,
Mississippi State Conference of
The National Association for the
Advancement of Colored People;
Jackson City Branch of the NAACP;
Derrick Johnson; Frank Figgers;
Charles Taylor; Markyel Pittman;
Charles Jones; and Nsombi
Lambright-Haynes

Plaintiffs

vs.

Case No. 3:23-cv-272-HTW-LGI

Tate Reeves, in his official capacity
as Governor of the State of Mississippi;
Sean Tisdell, in his official capacity
as Commissioner of Public Safety;
Bo Luckey, in his official capacity
as Chief of the Mississippi Department
of Public Safety Office of Capitol Police;
Michael K. Randolph, in his official
capacity as Chief Justice of the
Mississippi Supreme Court; and
Lynn Fitch, in her official capacity
as Attorney General of the State
of Mississippi

Defendants

**Motion to Dismiss on behalf of Defendant Michael K. Randolph, in his
official capacity as Chief Justice of the Mississippi Supreme Court**

Defendant Michael K. Randolph, in his official capacity as Chief Justice of
the Mississippi Supreme Court (the “Chief Justice”), moves the Court to dismiss the
action against the Chief Justice for lack of jurisdiction and failure to state a claim

upon which relief can be granted pursuant to the Federal Rules of Civil Procedure. The following independent, yet interrelated, grounds support such relief: (1) As a matter of comity and abstention, the U.S. District Court should defer to the State Court¹ that has assumed jurisdiction and made rulings. The State Court ordered from the Bench on May 4, 2023, that the effectiveness of HB 1020 be stayed. Issue has been joined in the State Court which has further set hearings for Wednesday, May 10, 2023. The State Court's bench ruling denied Plaintiffs' preliminary injunctive relief concerning Miss. Code Ann. section 9-1-105. The State Court ordered that the Chief Justice's Motion to Dismiss based on judicial immunity be heard first on May 10, 2023; (2) The Chief Justice is not a proper party since there is no "case or controversy" with respect to the Chief Justice, as he lacks a sufficient interest to be deemed an adverse litigant in this matter; (3) the Chief Justice is entitled to judicial and sovereign immunity; (4) public-policy considerations to secure fair, just and timely determination of every proceeding. *See* M.R.C.P. 1.

The Courts of Mississippi seek to promote justice, uniformity, and efficiency and to eliminate unjustifiable delay and expense and to protect the rights of individuals while protecting the public. *See* Miss.R.Crim.P. 1.2, also *see* Miss. Constitution Art. §§3, 24, 26, and 26A. Case precedent, federal and state, statutes, Rules of Court, the Code of Judicial Conduct, and the Constitutions of the United States and Mississippi overwhelmingly favor his dismissal.

Respectfully submitted, this the 4th day of May, 2023.

¹ The Fifth Chancery Court District for Hinds County, Cause No. 25CH1:23-cv-0021, Chancellor J. Dewayne Thomas presiding.

Respectfully submitted,

Michael K. Randolph, in his
official capacity as Chief Justice
of the Mississippi Supreme Court

/s/ Ned A. Nelson

By: _____
Ned A. Nelson, MB #105712

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Certificate of Service

I, Ned A. Nelson, hereby certify that on this the 4th day of May, 2023, I electronically filed the foregoing with Clerk of the Court using the ECF system which will provide notice to all counsel of record.

/s/ Ned A. Nelson

Ned A. Nelson